

IN THE UNITED STATES DISTRICT COURT  
IN AND FOR THE DISTRICT OF DELAWARE

TIMOTHY B. BINDER,	:	
	:	
Plaintiff,	:	
	:	C.A. NO. 04-1437(JJF)
v.	:	
	:	
PEP BOYS – MANNY, MOE &	:	JURY TRIAL DEMANDED
JACK OF DELAWARE, INC.,	:	
a Delaware corporation,	:	
	:	
Defendant.	:	

**PROPOSED RULE 16 SCHEDULING ORDER**

The parties having satisfied their obligations under Fed. R. Civ. P. 26(f),

IT IS ORDERED that:

1. **Pre-Discovery Disclosures.** The parties will exchange by **June 1, 2005** the information required by Fed. R. Civ. P. 26(a)(1) and D. Del. LR 16.2.
2. **Joinder of other Parties.** All motions to join other parties shall be filed on or before **June 24, 2005**.
3. **Settlement Conference.** Pursuant to 28 U.S.C. § 636, this matter is referred to Magistrate Judge Thyng for the purposes of exploring the possibility of a settlement. If the parties agree that they would benefit from a settlement conference, the parties shall contact Magistrate Judge Thyng to schedule a settlement conference so as to be completed no later than the Pretrial Conference or a date ordered by the Court.
4. **Discovery.**
  - (a) Exchange and completion of interrogatories, identification of all fact witnesses and document production shall be commenced so as to be completed by **October**

**31, 2005.**

(b) Maximum of **25 interrogatories** by each party to any other party.

(c) Maximum of **50 requests for admission** by each party to any other party.

(d) Maximum of **10 depositions** by plaintiff and **10** by defendant.

Depositions shall not commence until the discovery required by Paragraph 4 (a, b and c) are completed.

(e) Reports from retained experts required by Fed. R. Civ. P. 26(a)(2) are due from the plaintiff by **November 4, 2005**; from the defendant by **December 5, 2005**.

(f) Any party desiring to depose an expert witness shall notice and complete said deposition no later than thirty (30) days from receipt of said expert's report, unless otherwise agreed in writing by the parties.

**5. Discovery Disputes.**

(a) A party seeking discovery which the opposing party refuses to provide shall file a motion (no brief) pursuant to Rule 37 of the Federal Rules of Civil Procedure and Local Rule 37.1. Said motion shall not exceed a total of four (4) pages. An Answer to the Rule 37 motion, not to exceed four (4) pages, shall be filed within five (5) days of service of the motion. No reply is permitted.

(b) All papers shall set forth in a plain and concise manner the issue(s) in dispute, the party's position on the issue(s), and the reasons for the party's position.

(c) Upon receipt of the Answer, the movant shall notify Chambers by e-mail at [jjf\\_civil@ded.uscourts.gov](mailto:jjf_civil@ded.uscourts.gov) that the parties have completed briefing.

(d) Upon receipt of the movant's e-mail, the Court will determine

whether a conference is necessary and advise the parties accordingly.

(e) There is no limit on the number of Rule 37 motions a party may file, unless otherwise ordered by the Court.

6. **Amendment of the Pleadings.** All motions to amend the pleadings shall be filed on or before **October 31, 2005**.

7. **Case Dispositive Motions.** Any case dispositive motions, pursuant to the Federal Rules of Civil Procedure, shall be served and filed with an opening brief on or before **December 30, 2005**. Briefing shall be pursuant to D. Del. LR 7.1.2. No case dispositive motion may be filed more than ten (10) days from the above date without leave of the Court.

8. **Applications by Motion.**

(a) Any applications to the Court shall be by written motion filed with the Clerk of the Court in compliance with the Federal Rules of Civil Procedure and the Local Rules of Civil Practice for the United States District Court for the District of Delaware (Amended Effective January 1, 1995). Any non-dispositive motion shall contain the statement required by D. Del. LR 7.1.1. Parties may file stipulated and unopposed Orders with the Clerk of the Court for the Court's review and signing. The Court will not consider applications and requests submitted by letter or in a form other than a motion.

(b) No facsimile transmissions will be accepted.

(c) No telephone calls shall be made to Chambers.

(d) Any party with a true emergency matter requiring the assistance of the Court shall e-mail Chambers at: [jjf\\_civil@ded.uscourts.gov](mailto:jjf_civil@ded.uscourts.gov). The e-mail shall provide a short statement describing the emergency.

9. **Pretrial Conference and Trial.** The Court will schedule a Pretrial

Conference and Trial after reviewing the parties' proposed scheduling order.

5/23/05  
DATE

Joseph D. Fain  
UNITED STATES DISTRICT JUDGE